

Message Text

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ACTION EA-09

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FM AMEMBASSY MANILA

TO SECSTATE WASHDC 3248

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E. O. 11652: NA

TAGS: SHUM, PINT, RP

SUBJECT: HUMAN RIGHTS: NEW GENERAL ORDERS AND DECREES

1. EMBASSY HAS OBTAINED COPIES OF GENERAL ORDERS 59 AND 60 AND PRESIDENTIAL DECREES 1165 AND 1166, ALL DATED JUNE 24, ON JURISDICTION OF MILITARY TRIBUNALS AND OTHER MATTERS WHICH MAY HAVE BEARING ON FUTURE HANDLING OF HUMAN RIGHTS CASES. THE NEW ORDERS AND DECREES ARE STAMPED "NOT FOR GENERAL CIRCULATION," ALTHOUGH DEFENSE SECRETARY ENRILE RELEASED OUTLINE OF THE GENERAL ORDERS TO THE LOCAL PRESS JULY 29. COPIES BEING POUCHED EA/PHL. HIGHLIGHTS FOLLOW.

2. GENERAL ORDER 59 TRANSFERS FROM MILITARY TO CIVILIAN COURTS JURISDICTION OVER ALL CASES EXCEPT THOSE INVOLVING
1) NATIONAL SECURITY, 2) ILLEGAL POSSESSION OF FIREARMS, OR
3) CRIMES COMMITTED BY MEMBERS OF THE ARMED FORCES. IT ALSO TRANSFERS TO CIVIL COURTS ALL CASES IN WHICH THE ACCUSED HAVE NOT BEEN ARRAIGNED AS OF JUNE 24. IT PROVIDES, HOWEVER, THAT THE PRESIDENT MAY STILL REFER ANY CASE TO A MILITARY TRIBUNAL IF IT IS "IN THE NATIONAL INTEREST."

3. GENERAL ORDER 60 LIMITS THE AUTHORITY OF THE SECRETARY OF NATIONAL DEFENSE TO ISSUE ARREST, SEARCH AND SEIZURE
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ORDERS (ASSO'S) TO OFFENSES OVER WHICH MILITARY TRIBUNALS HAVE EXCLUSIVE JURISDICTION UNDER GENERAL ORDER 50. THE DEFENSE SECRETARY MAY STILL ISSUE ASSO'S FOR CRIMES WHICH "HAVE THE EFFECT OF UNDERMINING NATIONAL SECURITY OR PUBLIC ORDER AS DEFINED BY HIM."

4. PRESIDENTIAL DECREE 1165 AMENDS THE APPELLATE REVIEW

PROCEDURE IN MILITARY TRIBUNAL AND GENERAL COURT MARTIAL CASES. ITS KEY SECTION PROVIDES THAT DECISIONS OF THE COURT OF MILITARY APPEALS MAY BE APPEALED TO THE SUPREME COURT. REVIEW BY THE SUPREME COURT SHALL BE LIMITED TO QUESTIONS OF LAW, EXCEPT WHERE THE ACCUSED IS CHARGED WITH OFFENSES PUNISHABLE WITH DEATH OR LIFE IMPRISONEMENT, IN WHICH CASE THE REVIEW MAY BE ON QUESTIONS OF LAW AND FACT.

5. PRESIDENTIAL DECREE 1166 DELETES FROM THE 94TH ARTICLE OF WAR OF COMMONWEALTH ACT 408 THE CLAUSE WHICH PROVES THAT IN TIME OF PEACE MEMBERS OF THE PHILIPPINE CONSTABULARY MAY NOT BE TRIED BY COURT MARTIAL FOR FELONIES, CRIMES, OR OTHER BREACHES OF LAW.

6. COMMENT: AS ANTICIPATED, NATIONAL SECURITY CASES WILL CONTINUE TO BE HANDLED BY MILITARY COURTS. MOREOVER, PRESIDENT MARCOS STILL MAINTAINS ALL-IMPORTANT PREROGATIVE TO ASSIGN ANY CASE TO MILITARY TRIBUNAL. WE WILL BE ATTEMPTING TO ASCERTAIN IN-COMING DAYS HOW MANY CASES ACTUALLY AFFECTED BY GENERAL ORDER 59. SUPREME COURT JUSTICE GUILLERMO SANTOS, FORMER JUDGE ADVOCATE GENERAL, TOLD POL COUNSELOR JULY 20 HE UNDERSTOOD THAT SOME 3,000 CASES BEING TRANSFERRED FROM MILITARY TO CIVILIAN COURTS AND THAT STAFFING OF THE CIVIL COURT SYSTEM IS BEING AUGMENTED TO HANDLE ADDITIONAL LOAD.
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